



STATE OF ARKANSAS  
**Department of Finance  
and Administration**

**OFFICE OF THE DIRECTOR**

1509 West Seventh Street, Suite 401  
Post Office Box 3278  
Little Rock, Arkansas 72203-3278  
Phone: (501) 682-2242  
Fax: (501) 682-1029  
<http://www.state.ar.us/dfa>

March 26, 2008

Mr. Ron Stark, Associate Director  
for Management & Operations  
Arkansas Department of Health  
4815 West Markham  
Little Rock, AR 72203

RE: Advisory Opinion # 483-08-05

Dear Mr. Stark:

This letter is in response for your request for an advisory opinion in accordance with § 19-11-715(b) of the Arkansas Code Annotated of 1987. Your request for an advisory opinion is based on the following facts:

1. Berna Thomas was hired by the Arkansas Department of Health as the Ryan White Part B program manger on April 9, 2007
2. Ms. Thomas was responsible for the daily operations of the Ryan White Part B program, supervision of staff, preparation and submission of the Ryan White Part B application, establishing and monitoring the Program budget, and implementing sub-grants and contracts.
3. Effective November 1, 2007, Ms. Thomas resigned from the Arkansas Department of Health and went to work as executive Director for the Arkansas Aids Foundation.
4. The Arkansas Aids Foundation receives 'Ryan White Part B funding' through a sub-grant from the Arkansas Department of Health.
5. You are requesting an opinion regarding how Ms. Thomas's employment with the Arkansas Aids Foundation affects the sub-grant relationship between the Arkansas Aids Foundation and the Arkansas Department of Health.

A.C.A. §19-11-709(b) addresses restrictions on former state employees in matters connected with their former duties. A.C.A. §19-11-709(b)(1) imposes a permanent prohibition against acting as a principal or agent for anyone other than the state in matters in which the former employee "participated personally and substantially through decision, approval, disapproval, recommendation, rendering of advice, investigation, or otherwise while an employee, where the state is a party or has a direct or substantial interest."

The waiver provision found at A.C.A. §19-11-715 provides for the possibility of a waiver only from the application of A.C.A. §19-11-705, Employee conflict of interest, rather than A.C.A. §19-11-709, Restrictions on employment of present and former employees.

A.C.A. §19-11-709(e) specifically states: “This section is not intended to preclude a former employee from accepting employment with private industry solely because his or her employer is a contractor with this state.”

Pursuant to the above stated law(s), Ms. Thomas is permanently precluded from acting as a principal or agent for the Arkansas Aids Foundation in connection with the sub-grant that has been awarded by the Arkansas Department of Health. However, Ms. Thomas is not precluded from accepting employment with the Arkansas Aids Foundation. Therefore, as long as Ms. Thomas permanently refrains from acting as principal or agent for the Arkansas Aids Foundation in connection with the sub-grant that has been awarded by the Arkansas Department of Health, the Arkansas Aids Foundation will be allowed to accept the sub-grant from the Arkansas Department of Health.

This advisory opinion is issued in accordance with A.C.A. §19-11-715(b) and compliance with the above course of conduct is deemed to constitute compliance with the ethical standards of the Act and Executive Order 98-04.

Sincerely,

Richard A. Weiss  
Director

cc: Robin Rogers, OSP